

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Merle G. Mollenhauer.
Petitioner-Appellant,

v.

Linn County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 13-57-0001
Parcel No. 11062-26007-00000

On October 25, 2013, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioner-Appellant Merle Mollenhauer was self-represented. Assistant County Attorney Gary Jarvis is the legal representative for the Linn County Board of Review. Linn County Assessor Julie Kester represented the Board of Review at hearing. The Appeal Board now, having examined the entire record, heard the testimony, and being fully advised, finds:

Findings of Fact

Merle Mollenhauer is the owner of property located at 3571 Mollenhauer Lane, Toddville, Iowa. The real estate was classified residential on the January 1, 2013, assessment. It was valued at \$334,900, representing \$88,600 in land value and \$246,300 in improvement value.

According to the property record card, Mollenhauer's property is one-story, frame home built in 2008. It has 2122 square feet of above-grade living area and a full, walk-out basement with 235 square feet of average quality finish. The property also has geothermal heating, 680 square feet of open porches, and a 600 square-foot attached garage. The subject is listed as good quality grade

(3+10) and is in normal condition. It also includes a 1500 square-foot steel utility building built in 2008. The site is 4.140 acres.

Mollenhauer protested the assessment to the Board of Review on the grounds that there was an error in the assessment under Iowa Code section 441.37(1)(a)(4). Essentially, we find his error claim asserts his property is over-assessed under section 441.37(1)(a)(2). Mollenhauer also asserted there has been a downward change in value since the last assessment under 441.37(1)(b) and 441.35(2). In a re-assessment year, a challenge based on downward change in value is akin to a market value claim. *See Dedham Co-op. Ass'n v. Carroll County Bd. of Review*, 2006 WL 1750300 (Iowa Ct. App. 2006). Accordingly, we do not consider downward change as a separate claim. Mollenhauer did not place a value on his property in his protest to the Board of Review. The Board of Review granted his protest and lowered his assessment to \$317,100, representing \$70,800 in land value and \$246,300 in improvement value.

Mollenhauer then appealed to this Board asserting that he believes the assessed value should be the same as it was in 2012, \$285,608; representing \$48,308 in land value and \$237,300 in improvement value.

Mollenhauer testified his taxes have gone up three years in a row. His main concern was the land value, which increased from \$48,308 in 2012 to \$88,600 for the 2013 assessment. The Board of Review lowered it to \$70,800 after applying a 20% topography adjustment to the main lot, which ultimately resulted in a \$22,492 land value increase from 2012. He did not contest the improvement value of the property. According to Mollenhauer, the land includes an area that is wet and boggy and he feels the land is worth nothing because he can't do anything with it. He stated the parcel cannot be subdivided and is not buildable.

Mollenhauer also testified the neighbor's lot includes a huge building that he feels devalues his property if someone would move in and establish a business there or "junks up the place."

Mollenhauer actually sold this adjacent property in 2008 and it has resold since then. He ultimately believes the land value increase should not have been so much in one year. He felt his land value should actually have gone down, not up, but did not provide any evidence to substantiate this assertion. The bulk of Mollenhauer's argument amounts to unsubstantiated speculation about the future use of the adjoining property and the impact that may have on his property's value. Additionally, we note the property record card indicates the Assessor already applied 5% obsolescence to the improvements due to the "shared driveway & commercial buildings nearby" prior to issuance of the 2013 Assessment Notice.

Caleb Howard, an appraiser with the Linn County Assessor's Office, testified for the Board of Review. Howard explained there was a complete countywide residential re-appraisal done for 2013. This is the first complete re-appraisal in the county since 1993. The subject property was inspected by a representative of Vanguard Appraisals on April 5, 2012. The land was rated as Very Good because the subject property is located on the east of Interstate 380 with good access to North Center Point Road. According to Howard, this rating is used in determining the value of the land. Consistent with the valuation of other residential Linn County properties rated Very Good, the subject's first acre is valued at \$65,000 and each additional acre is valued at \$7,500. Howard also testified as to the seven market comparables the Board of Review submitted. (Exhibit G).

Linn County Assessor Julie Kester testified and explained the process which Vanguard Appraisals used in determining the values of the properties. She testified how the land equity values were placed on different parcels according to the access to North Center Point Road as compared to those properties on the west side of Interstate 380. Kester also reported the Board of Review applied at 20% downward adjustment to Mollenhauer's land value due to the wet and boggy area.

Ultimately, Mollenhauer did not provide any evidence of the subject property's correct fair market value as of January 1, 2013, such as an appraisal of the subject property or recent adjusted sales

of comparable properties. Therefore, he has not met his evidentiary burden to succeed on his over assessment claim.

Conclusion of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2). The property's assessed value shall be one hundred percent of its actual value. § 441.21(1)(a).

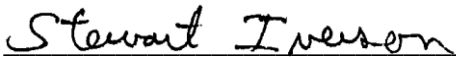
In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the

subject property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995).


Mollenhauer did not provide any evidence of the subject property's correct fair market value as of January 1, 2013, and thus has failed to establish his property is over-assessed. The Board of Review applied an adjustment to his property to account for the boggy area and Mollenhauer provided no evidence suggesting further adjustment is necessary. Additionally, if the adjoining property's use ever should change and Mollenhauer can produce evidence of a detrimental impact on his property's value, he should contact the Assessor's Office to review his assessment at that time.

THE APPEAL BOARD ORDERS the 2013 assessment of Merle Mollenhauer's property located at 3571 Mollenhauer Lane, Toddville, Iowa is affirmed with a total value of \$317,100.

Dated this 12th day of November, 2013.


Stewart Iverson, Presiding Officer


Jacqueline Rypma, Board Member


Karen Oberman, Board Member

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>November 12, 2013</u> .	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
	
Signature _____	